

104TH CONGRESS } 1st Session	HOUSE OF REPRESENTATIVES	{ REPT. 104-109 Part 1
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## ATLANTIC TUNAS CONVENTION ACT OF 1995

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MAY 1, 1995.—Ordered to be printed

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Mr. YOUNG of Alaska, from the Committee on Resources, submitted  
the following

### R E P O R T

[To accompany H.R. 541]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 541) to reauthorize the Atlantic Tunas Convention Act of 1975, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Atlantic Tunas Convention Act of 1995”.

#### SEC. 2. RESEARCH AND MONITORING ACTIVITIES.

(a) REPORT TO CONGRESS.—The Secretary of Commerce shall, within 90 days after the date of enactment of this Act, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives—

(1) identifying current governmental and non-governmental research and monitoring activities on Atlantic bluefin tuna and other highly migratory species;

(2) describing the personnel and budgetary resources allocated to such activities; and

(3) explaining how each activity contributes to the conservation and management of Atlantic bluefin tuna and other highly migratory species.

(b) RESEARCH AND MONITORING PROGRAM.—Section 3 of the Act of September 4, 1980 (16 U.S.C. 971i) is amended—

(1) by amending the section heading to read as follows:

**“SEC. 3. RESEARCH ON ATLANTIC HIGHLY MIGRATORY SPECIES.”;**

(2) by inserting “(a) BIENNIAL REPORT ON BLUEFIN TUNA.—” before “The Secretary of Commerce shall”; and

(3) by adding at the end the following:

**“(b) HIGHLY MIGRATORY SPECIES RESEARCH AND MONITORING.—**

“(1) Within 6 months after the date of enactment of the Atlantic Tunas Convention Act of 1995, the Secretary of Commerce, in cooperation with the advisory committee established under section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) and in consultation with the United States Commissioners on the International Commission for the Conservation of Atlantic Tunas (referred to in this section as the ‘Commission’) and the Secretary of State, shall develop and implement a comprehensive research and monitoring program to support the conservation and management of Atlantic bluefin tuna and other highly migratory species, that shall—

“(A) identify and define the range of stocks of highly migratory species in the Atlantic Ocean, including Atlantic bluefin tuna; and

“(B) provide for appropriate participation by nations which are members of the Commission.

“(2) The program shall provide for, but not be limited to—

“(A) statistically designed cooperative tagging studies;

“(B) genetic and biochemical stock analyses;

“(C) population censuses carried out through aerial surveys of fishing grounds and known migration routes;

“(D) adequate observer coverage and port sampling of commercial and recreational fishing activity;

“(E) collection of comparable real-time data on commercial and recreational catches and landings through the use of permits, logbooks, landing reports for charter operations and fishing tournaments, and programs to provide reliable reporting of the catch by private anglers;

“(F) studies of the life history parameters of Atlantic bluefin tuna and other highly migratory species;

“(G) integration of data from all sources and the preparation of data bases to support management decisions; and

“(H) other research as necessary.

“(3) The Secretary of Commerce shall ensure that personnel and resources of each regional research center shall have substantial participation in the stock assessments, research, and monitoring of highly migratory species that occur in that region.

“(4) In developing a program under this section, the Secretary shall provide for comparable monitoring of all United States fishermen to which this Act applies with respect to effort and species composition of catch and discards. The Secretary through the Secretary of State shall encourage other member nations to adopt a similar program.”.

**SEC. 3. ADVISORY COMMITTEE PROCEDURES.**

Section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) is amended—

(1) by inserting “(a)” before “There”; and

(2) by adding at the end the following:

“(b)(1) A majority of the members of the advisory committee shall constitute a quorum, but one or more such members designated by the advisory committee may hold meetings to provide for public participation and to discuss measures relating to the United States implementation of Commission recommendations.

“(2) The advisory committee shall elect a Chairman for a 2-year term from among its members.

“(3) The advisory committee shall meet at appropriate times and places at least twice a year, at the call of the Chairman or upon the request of the majority of its voting members, the United States Commissioners, the Secretary, or the Secretary of State.

“(4)(A) The Secretary shall provide to the advisory committee in a timely manner such administrative and technical support services as are necessary for the effective functioning of the committee.

“(B) The Secretary and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements.

“(5) The advisory committee shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this Act, the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the Con-

vention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures.

“(6) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory committee.”.

#### SEC. 4. REGULATIONS AND ENFORCEMENT OF CONVENTION.

Section 6(c) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)) is amended—

(1) in paragraph (3) in the matter following subparagraph (K), by inserting “or fishery mortality level” after “quota of fish”; and

(2) by striking paragraphs (4) and (5) and inserting the following:

“(4) PUBLICATION OF LIST.—Not later than January 1, 1996, and annually thereafter, the Secretary, in consultation with the Secretary of State, shall publish a list of nations whose fishing vessels are fishing, or have fished during the previous year, within the Convention area in a manner that is inconsistent with the objectives of a conservation or management recommendation of the Commission.

“(5) IDENTIFICATION AND NOTIFICATION.—As soon as practicable after the date of the enactment of the Atlantic Tunas Convention Act of 1995 and as appropriate thereafter, the Secretary shall—

“(A) identify those nations whose fishing vessels are fishing within the Convention area in a manner that is inconsistent with the objectives of a conservation or management recommendation of the Commission; and

“(B) notify the President and the nation so identified, including an explanation of the reasons therefor.

“(6) CONSULTATIONS.—Not later than 30 days after a nation is notified under paragraph (5), the President shall enter into consultations with the government of that nation for the purpose of obtaining an agreement that will—

“(A) effect the immediate termination and prevent the resumption of any fishing by fishing vessels of that nation within the Convention area that is inconsistent with the objectives of a conservation or management recommendation of the Commission; and

“(B) when practicable, require the government or fishing vessels of that nation to mitigate the negative impacts of that fishing on the effectiveness of a conservation or management recommendation of the Commission including, but not limited to, by imposing deductions for quota overages in subsequent years.

“(7) PROHIBITION OF IMPORTS OF FISH AND FISH PRODUCTS.—

“(A) If, within 90 days after entering into consultations under paragraph (6), the President finds that such consultations have not concluded satisfactorily or are not likely to conclude satisfactorily, the President shall—

“(i) direct the Secretary of the Treasury to prohibit the importation into the United States from the nation concerned of fish and fish products of those species which are subject to regulation pursuant to a recommendation of the Commission and which were harvested within the Convention area; and

“(ii) upon the recommendation of the Secretary, direct the Secretary of the Treasury to prohibit the importation from the nation concerned of such other fish and fish products as may be necessary to carry out the purposes of this subsection.

“(B) In making a recommendation under subparagraph (A)(ii), the Secretary shall take into consideration the severity of the impacts of fishing by fishing vessels of the nation concerned on the effectiveness of a conservation or management recommendation of the Commission.”.

#### SEC. 5. FINES AND PERMIT SANCTIONS.

Section 7(e) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971(e)) is amended to read as follows:

“(e) The civil penalty and permit sanctions of section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858) are hereby made applicable to violations of this section as if they were violations of section 307 of that Act.”.

#### SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

## "AUTHORIZATION OF APPROPRIATIONS

"SEC. 10. There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, the following sums:

"(1) For fiscal year 1996, \$2,750,000, of which \$50,000 are authorized in the aggregate for the advisory committee established under section 4 and the species working groups established under section 4A, and \$1,500,000 are authorized for research activities under this Act.

"(2) For fiscal year 1997, \$4,000,000 of which \$62,000 are authorized in the aggregate for such advisory committee and such working groups, and \$2,500,000 are authorized for such research activities.

"(3) For fiscal year 1998, \$4,000,000, of which \$75,000 are authorized in the aggregate for such advisory committee and such working groups, and \$2,500,000 are authorized for such research activities."

**SEC. 7. REPORT AND CERTIFICATION.**

The Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.) is amended by adding at the end thereof the following:

## "ANNUAL REPORT

"SEC. 12. Not later than April 1, 1996, and annually thereafter, the Secretary, in consultation with the Secretary of State and the advisory committee established under section 4, shall prepare and transmit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, that—

"(1) details for the previous 10-year period the catches and exports to the United States of highly migratory species (including tunas, swordfish, marlin, and sharks) from nations fishing on Atlantic stocks of such species that are subject to management by the Commission;

"(2) describes the results of efforts by the United States to negotiate with other nations whose fishing vessels are fishing or have fished in the previous year within the Convention area to establish reporting, monitoring, and enforcement measures that are comparable to those in effect for the United States pursuant to the Convention;

"(3) describes reporting requirements established by the Secretary to ensure that imported fish products are in compliance with all international management measures, including minimum size requirements, established by the Commission and other international fishery organizations to which the United States is a party; and

"(4) describes actions taken by the Secretary under sections 6 and 13.

## "CERTIFICATION

"SEC. 13. (a) After January 1, 1997, if the Secretary determines that any nation with which negotiations were held pursuant to section 12(2) has not established or is not likely to establish reporting, monitoring, and enforcement measures that are comparable to those in effect for the United States pursuant to the Convention, the Secretary shall certify that fact to the President and notify the nation of the certification.

"(b) Within 60 days after the date of receiving a certification under subsection (a) regarding a nation, the President shall direct the Secretary of the Treasury to limit the importation from the nation of fish and fish products of those species which are subject to a regulation pursuant to a recommendation of the Commission, to levels that are consistent with the applicable harvest or fishing mortality levels recommended by the Commission.

## "REMOVAL OF PROHIBITIONS

"SEC. 14. If the President finds that the reasons for the imposition of any prohibition under section 6 or any limitation on importation under section 13 no longer prevail, the President shall direct the Secretary of the Treasury to promptly terminate such prohibition or limitation.

## "SAVINGS CLAUSES

"SEC. 15. (a) Nothing in this Act shall have the effect of diminishing the rights and obligations of any nation under Article VIII(3) of the Convention.

“(b) Nothing in this Act shall have the effect of diminishing the rights and obligations of the United States as set forth in the General Agreement on Tariffs and Trade.”.

**SEC. 8. SENSE OF THE CONGRESS WITH RESPECT TO ICCAT NEGOTIATIONS.**

(a) **SHARING OF CONSERVATION BURDEN.**—It is the sense of the Congress that in future ICCAT negotiations, the Secretary of Commerce shall ensure that the conservation actions recommended by international commissions and implemented by the Secretary for United States commercial and recreational fishermen provide fair and equitable sharing of the conservation burden among all contracting harvesters in negotiations with those commissions.

(b) **ENFORCEMENT PROVISIONS.**—It is further the sense of the Congress that, during 1995 ICCAT negotiations on swordfish and other Highly Migratory Species managed by ICCAT, the Congress encourages the United States Commissioners to add enforcement provisions similar to the bluefin tuna sanctions.

(c) **ENHANCED MONITORING.**—It is further the sense of the Congress that the National Oceanic and Atmospheric Administration and United States Customs Service should enhance monitoring activities to ascertain what specific stocks are being imported into the United States and the country of origin.

**PURPOSE OF THE BILL**

The purpose of H.R. 541 is to authorize the Atlantic Tunas Convention Act, which provides the legal authority for the United States to participate in the International Convention for the Conservation of Atlantic Tunas.

**BACKGROUND AND NEED FOR LEGISLATION**

In 1966, the International Convention for the Conservation of Atlantic Tunas (ICCAT) was established for the conservation of highly migratory tuna and tuna-like species of the Atlantic Ocean, Mediterranean Sea, and Gulf of Mexico. These species include bluefin, yellowfin, albacore, and bigeye tunas as well as swordfish, marlin, and spearfish. These fish travel between high seas areas and the Exclusive Economic Zones of countries bordering the Atlantic Ocean and, thus, may be subject to a wide range of regulations. Due to the immense distances covered by these types of fish and the large number of countries that fish for them, ICCAT sought to establish uniform, international regulations for these commercially valuable, but quickly declining living marine resources.

To date, 22 countries, including the United States, Japan, Canada, and Spain, are signatories to ICCAT. Although the U.S. Senate ratified ICCAT in 1967, nine years passed before enactment of the Atlantic Tunas Convention Act (ATCA) of 1975. ATCA has been amended several times, most recently in 1990.

ATCA (16 U.S.C. 971–971i, Public Law 94–70) authorizes the involvement of the United States in ICCAT. It establishes such necessary procedures for the selection of the U.S. delegates to the ICCAT Commission, the U.S. Advisory Committee, and Species Working Groups. The Secretary of Commerce is authorized to administer and enforce all provisions of ICCAT and ATCA and may propose necessary and appropriate regulations for this mandate. The regulations may establish open and closed seasons, fish size requirements and catch limitations, incidental catch restrictions, and observer coverage. ATCA also includes provisions on civil penalties, enforcement, and an authorization of appropriations.

Furthermore, the Act authorizes the Secretary of Commerce to prohibit the entry into the United States of any fish subject to reg-

ulations recommended by ICCAT and taken in a manner which would diminish the effectiveness of ICCAT's conservation efforts. The Secretary of Commerce is also required to prepare and submit to Congress biennial reports summarizing bluefin tuna harvest by U.S. fishermen and the status of bluefin tuna stocks under ICCAT's jurisdiction.

In November of 1994, ICCAT held its annual meeting in Madrid, Spain, and spent a considerable amount of time debating the findings contained in the U.S. National Research Council (NRC) study on western bluefin biology and stock assessments. In its report, the NRC questioned the theory on which all stock assessments and allocations were made. After reassessing the revised data for Atlantic bluefin stocks, ICCAT recommended a modest increase in the western Atlantic bluefin harvest quota.

It is clear to the Committee that greater participation by all nations will be necessary if ICCAT recommendations are to be effective in conserving highly migratory species (HMS).

#### COMMITTEE ACTION

H.R. 541 was introduced on January 17, 1995, by Congressman Jim Saxton. The bill was referred to the Committee on Resources, and within the Committee was referred to the Subcommittee on Fisheries, Wildlife and Oceans.

On January 25, 1995, the Subcommittee on Fisheries, Wildlife and Oceans held a hearing on H.R. 541, and other issues. Ambassador David A. Colson, Deputy Assistant Secretary of State for Oceans, and Mr. Rolland A. Schmitten, Assistant Administrator for Fisheries, National Marine Fisheries Service, testified for the Administration. Both witnesses supported the reauthorization of ATCA and Ambassador Colson noted that "we believe [ICCAT] is now on the right track for effective conservation of Atlantic bluefin tuna and swordfish stocks, the species of primary interest to the United States".

On February 1, 1995, the Subcommittee on Fisheries, Wildlife and Oceans met to mark up H.R. 541. At that time, Congressman Torkildsen offered two amendments. The first amendment clarified that aerial surveys of bluefin population censuses would include known migration routes. The second amendment required regional fisheries centers with the greatest proximity to a fishery should have substantial participation in stock assessments, research, and monitoring of that fishery. These amendments were adopted by voice vote. The bill was ordered favorably reported to the Full Committee.

On April 5, 1995, the Full Committee met to consider H.R. 541. At that time, Subcommittee Chairman Jim Saxton offered two amendments. The first amendment expressed a "Sense of Congress" that in future ICCAT negotiations the Secretary of Commerce shall ensure that the conservation burden be shared fairly and equitably with all harvesters; that U.S. Commissioners to the next ICCAT meeting seek the adoption of enforcement provisions on swordfish and other highly migratory species that are comparable to the bluefin tuna sanctions adopted in 1994; and that steps be taken to carefully monitor the stocks and country of origin of fish being imported into the United States. The second amend-

ment established new enforcement provisions against those countries that violate ICCAT-approved conservation measures by mandating a limitation on the import of fish caught in violation of these measures. These amendments were both adopted by voice vote. No other amendments were offered and the bill as amended was ordered favorably reported to the House of Representatives by voice vote, in the presence of a quorum.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

This section states that the bill may be cited as the “Atlantic Tunas Convention Act of 1995”.

##### *Section 2. Research and monitoring activities*

This section requires a report within 90 days of enactment from the Secretary of Commerce to Congress which includes: (1) identifying all research and monitoring activities on Atlantic bluefin tuna and other HMS; (2) describing personnel and budgetary resources allocated to these activities; and (3) explaining how each activity contributes to the conservation and management of these species.

This section also requires the Secretary of Commerce to develop and implement a research program to support the conservation and management of HMS. The program will include cooperative tagging studies; genetic and biochemical stock analyses; population censuses; aerial surveys; adequate observer coverage; port sampling of fishing activity; collection of real-time data on commercial and recreational catches through the use of permits, logbooks, landing reports for charter operations and fishing tournaments; studies of the life history of Atlantic bluefin tuna and other HMS integration of data from all sources; and other relevant research. The Secretary must also ensure that each regional fisheries center with proximity to a fishery shall have substantial participation in stock assessments, research, and monitoring of that fishery.

##### *Section 3. Advisory committee procedures*

This section amends section 4 of ATCA by adding advisory committee meeting requirements (including quorum, times, and public meeting requirements), providing for the selection of a committee chairman, requiring the Secretary of Commerce to provide administrative support, directing the Secretaries of Commerce and State to furnish the advisory committee with relevant information concerning fisheries and international fisheries agreements, and directing the committee to make public a statement of its organization, practices, and procedures.

##### *Section 4. Regulations*

This section amends ATCA by requiring that no regulation issued under the Act can have the effect of increasing or decreasing any allocation or quota of fish or fishing mortality level to the United States agreed to by recommendation of the ICCAT Commission.

This section requires the Secretary of Commerce to annually publish a list of those nations whose fishing vessels are undermining the goals of a conservation or management plan and it directs

the President to prohibit, under certain circumstances, fish and fish products from any nation whose vessels are violating the objectives of ICCAT.

*Section 5. Fines and permit sanctions*

This section provides that violations under ATCA will be treated as violations under section 307 of the Magnuson Fishery Conservation and Management Act.

*Section 6. Authorization of appropriations*

This section provides continued authorizations of appropriations for ATCA for Fiscal Years 1996, 1997, and 1998, divided between the advisory committee and species working groups, and research activities.

*Section 7. Report and certification*

This section amends ATCA to require an annual report that: (1) details for the previous 10-year period the catches and exports to the United States of HMS (including tunas, swordfish, marlin, and sharks) from nations fishing on Atlantic stocks of such species that are subject to management by the Commission; (2) describes the results of negotiations with other countries to establish reporting, monitoring and enforcement measures comparable to those of the United States; (3) describes reporting requirements established by the Secretary to ensure that imported fish products are in compliance with all international management measures, including minimum size requirements, established by the Commission and other international fishery organizations to which the United States is a party; and (4) describes certification actions taken by the Secretary and actions taken under section 6 of ATCA.

Also under this section, if the Secretary of Commerce determines that a nation is not likely to establish ICCAT reporting, monitoring and enforcement requirements comparable to those of the United States, the Secretary must certify this fact to the President. The President must then limit the importation of fish and fish products of those species subject to ICCAT recommendations from that nation to levels consistent with the harvest or morality levels recommended by the ICCAT Commission. The President may terminate this limitation.

Finally, this section states that nothing in ATCA diminishes the rights and obligations of the United States under the General Agreement on Tariffs and Trade.

*Section 8. Sense of Congress*

This section expresses the "Sense of Congress" that in future ICCAT negotiations, the Secretary of Commerce shall take the necessary actions to ensure that the conservation burden would be shared fairly and equitably with all fish harvesters; that at the next convention meeting, U.S. Commissioners to ICCAT support enforcement provisions on swordfish and other HMS that are comparable to those implemented for bluefin tuna; and that steps should be taken to carefully monitor the stocks and country of origin of the fish being imported into the United States.



#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(l)(3) of rule XI of the Rules of the House of Representatives and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the rules of the House of Representatives, the Committee estimates that the enactment of H.R. 541 will have no significant inflationary impact on prices and costs in the operation of the national economy.

#### COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 541. However, clause 7(d) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

#### COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirements of clause 2(l)(3)(B) of rule XI of the rules of the House of Representatives, and section 308(a) of the Congressional Budget Act of 1974, H.R. 541 does not contain any new budget authority, credit authority, or a decrease in revenues or tax expenditures. The bill may result in insignificant increased revenue (less than \$500,000) to the United States through the collection of criminal fines for violations of the Atlantic Tunas Convention Act, and direct spending of these fines after deposit into the Crime Victims Fund.

2. With respect to the requirement of clause 2(l)(3)(D) of rule XI of the rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 541.

3. With respect to the requirement of clause 2(l)(3)(C) of rule XI of the rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 541 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, April 13, 1995.*

Hon. DON YOUNG,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 541, the Atlantic Tunas Convention Act of 1995.

Enactment of S. 541 would affect direct spending and receipts. Therefore, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM  
(For June E. O'Neill, *Director*).

CONGRESSIONAL BUDGET OFFICE

COST ESTIMATE

1. Bill number: H.R. 541.
2. Bill title: The Atlantic Tunas Convention Act of 1995.
3. Bill status: As ordered reported by the House Committee on Resources on April 5, 1995.
4. Bill Purpose: H.R. 541 would amend the Atlantic Tunas Convention Act (Public Law 94-70) to require the Secretary of Commerce to develop and implement a research and monitoring program to support the conservation and management of Atlantic bluefin tuna and other highly migratory species. The bill also would require the Secretary of Commerce to submit a report to the Congress explaining any current research that is being done on these species, as well as budgetary resources and personnel committed to this effort. The bill would authorize appropriations of \$2.75 million in fiscal year 1995 and \$4 million each year for fiscal years 1996 through 1998 to carry out these activities.

H.R. 541 also would require the Secretary of Commerce to publish annually a list of nations whose fishing vessels have fished within an area designated by the International Convention for the Conservation of Atlantic Tunas in ways that are inconsistent with recommendations of the Commission for the Conservation of Atlantic Tunas. The President would be directed to enter into consultations with those nations in order to end this behavior by their vessels, and if practicable, to mitigate any negative impacts that have taken place. If these negotiations are not successful, the President would direct the Secretary of the Treasury to prohibit imports from the offending nation(s) of fish and fish products that are subject to regulation by the commission.

The bill also would require the President to direct the Secretary of the Treasury to limit the importation of fish or fish products subject to regulation by the commission from nations that have not established reporting and enforcement measures that are comparable to those in effect for the United States pursuant to the Convention.

Finally, H.R. 541 would amend Public Law 94–70 to establish civil and criminal penalties under the Magnuson Fishery Conservation and Management Act.

5. Estimated cost to the Federal Government: H.R. 541 would authorize appropriations of \$2.75 million for 1995 and \$4 million each year for 1996 through 1998. This estimate assumes that the full amounts authorized would be appropriated. The National Oceanic and Atmospheric Administration (NOAA) did not receive an appropriation to carry out these activities in 1995. Because some of the bill's requirements are similar to functions already being carried out by NOAA within its Operations, Research and Facilities account, CBO used that account's outlay rate for estimating outlays of the amounts authorized.

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000
Spending subject to appropriations action:						
Authorizations of appropriations .....	2.8	4.0	4.0	4.0	.....	.....
Estimated outlays .....	0	3.6	4.2	4.4	1.8	0.5
Direct spending:						
Estimated budget authority .....	.....	.....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )
Estimated outlays .....	.....	.....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )
Revenues .....	.....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )

<sup>1</sup> CBO cannot estimate this amount precisely, but expects that it would be less than \$500,000.

The costs of this bill fall within budget function 300.

Based on information received from the Department of Commerce and the Customs Service, CBO estimates that enforcement of the import ban or limitation would not significantly increase costs to the federal government. The Customs Service already has similar procedures in place for yellowfin tuna, and has indicated that it could duplicate them for bluefin tuna and other species.

Any civil and criminal fines levied under the Magnuson Act would increase receipts to the federal government. Criminal fines would be deposited in the Crime Victims Fund and would be spent in the following year. Receipts from civil penalties would be used to pay for enforcement costs incurred by the Department of Commerce. CBO does not expect this additional revenue or direct spending to be significant.

6. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enactment of H.R. 541 would affect direct spending and receipts through the imposition of criminal fines and resulting spending from the Crime Victims Fund. CBO estimates that the amounts involved would be less than \$500,000 per year. The following table summarizes the estimated pay-as-you-go impact of this bill.

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998
Change in outlays .....	0	0	0	0
Change in receipts .....	0	0	0	0

7. Estimated cost to State and local governments: None.

8. Estimate comparison: None.

9. Previous CBO estimate: On April 12, 1995, CBO prepared a cost estimate for S. 267, the Fisheries Act of 1995. Title III of S. 267 corresponds to H.R. 541; however, it does not include the import prohibition and limitation provisions. The authorization levels in H.R. 541 are identical to those in Title III of S. 267, and the tuna import provisions would have no significant budgetary impact.

10. Estimate prepared by: Rachel Robertson.

11. Estimated approved by: Robert A. Sunshine (for Paul N. Van de Water, Assistant Director for Budget Analysis).

#### DEPARTMENTAL REPORTS

The Committee has received no departmental reports on H.R. 541.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

#### SECTION 3 OF THE ACT OF SEPTEMBER 4, 1980

AN ACT To authorize appropriations for fiscal years 1981, 1982, and 1983 for the Atlantic Tunas Convention Act of 1975, and for other purposes.

#### [SEC. 3. REPORTS REGARDING BLUEFIN TUNA.]

##### **SEC. 3. RESEARCH ON ATLANTIC HIGHLY MIGRATORY SPECIES.**

(a) *BIENNIAL REPORT ON BLUEFIN TUNA.*—The Secretary of Commerce shall prepare, for each biennial period commencing with the period covering calendar years 1981 and 1982, and submit to the Congress a report setting forth, with respect to such biennial period—

(1) the level of taking of bluefin tuna by United States fishermen in the Convention area as defined in Article I of the International Convention for the Conservation of Atlantic Tunas;

(2) the status of bluefin tuna stocks within such Convention area and the trends in their population level; and

(3) related information resulting from the implementation of the observer program under section 2 of this Act.

The report required under this section shall be submitted to the Congress within sixty days after the close of the biennial period covered by the report. There are authorized to be appropriated such sums as may be necessary to carry out this section.

(b) *HIGHLY MIGRATORY SPECIES RESEARCH AND MONITORING.*—

(1) *Within 6 months after the date of enactment of the Atlantic Tunas Convention Act of 1995, the Secretary of Commerce, in cooperation with the advisory committee established under section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) and in consultation with the United States Commissioners on the International Commission for the Conservation of Atlantic Tunas (referred to in this section as the "Commission") and the Secretary of State, shall develop and imple-*

*ment a comprehensive research and monitoring program to support the conservation and management of Atlantic bluefin tuna and other highly migratory species, that shall—*

- (A) identify and define the range of stocks of highly migratory species in the Atlantic Ocean, including Atlantic bluefin tuna; and*
- (B) provide for appropriate participation by nations which are members of the Commission.*
- (2) The program shall provide for, but not be limited to—*
  - (A) statistically designed cooperative tagging studies;*
  - (B) genetic and biochemical stock analyses;*
  - (C) population censuses carried out through aerial surveys of fishing grounds and known migration routes;*
  - (D) adequate observer coverage and port sampling of commercial and recreational fishing activity;*
  - (E) collection of comparable real-time data on commercial and recreational catches and landings through the use of permits, logbooks, landing reports for charter operations and fishing tournaments, and programs to provide reliable reporting of the catch by private anglers;*
  - (F) studies of the life history parameters of Atlantic bluefin tuna and other highly migratory species;*
  - (G) integration of data from all sources and the preparation of data bases to support management decisions; and*
  - (H) other research as necessary.*
- (3) The Secretary of Commerce shall ensure that personnel and resources of each regional research center shall have substantial participation in the stock assessments, research, and monitoring of highly migratory species that occur in that region.*
- (4) In developing a program under this section, the Secretary shall provide for comparable monitoring of all United States fishermen to which this Act applies with respect to effort and species composition of catch and discards. The Secretary through the Secretary of State shall encourage other member nations to adopt a similar program.*

#### **ATLANTIC TUNAS CONVENTION ACT OF 1975**

\* \* \* \* \*

#### **ADVISORY COMMITTEE**

**SEC. 4. (a)** There is established an advisory committee which shall be composed of—

**(1)** \* \* \*

\* \* \* \* \*

*(b)(1) A majority of the members of the advisory committee shall constitute a quorum, but one or more such members designated by the advisory committee may hold meetings to provide for public participation and to discuss measures relating to the United States implementation of Commission recommendations.*

*(2) The advisory committee shall elect a Chairman for a 2-year term from among its members.*

(3) *The advisory committee shall meet at appropriate times and places at least twice a year, at the call of the Chairman or upon the request of the majority of its voting members, the United States Commissioners, the Secretary, or the Secretary of State.*

(4)(A) *The Secretary shall provide to the advisory committee in a timely manner such administrative and technical support services as are necessary for the effective functioning of the committee.*

(B) *The Secretary and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements.*

(5) *The advisory committee shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this Act, the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures.*

(6) *The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory committee.*

\* \* \* \* \*

#### ADMINISTRATION

SEC. 6. (a) \* \* \*

\* \* \* \* \*

(c)(1) \* \* \*

\* \* \* \* \*

(3) The regulations required to be promulgated under paragraph (1) of this subsection may—

(A) \* \* \*

\* \* \* \* \*

(K) impose such other requirements and provide for such other measures as the Secretary may determine necessary to implement any recommendation of the Convention or to obtain scientific data necessary to accomplish the purpose of the Convention;

except that no regulation promulgated under this section may have the effect of increasing or decreasing any allocation or quota of fish or fishery mortality level to the United States agreed to pursuant to a recommendation of the Commission.

[(4) Upon the promulgation of regulations provided for in paragraph (3) of this subsection, the Secretary shall promulgate, with the concurrence of the Secretary of State and pursuant to the procedures prescribed in paragraph (2) of this subsection, additional regulations which shall become effective simultaneously with the application of the regulations provided for in paragraph (3) of this subsection, which prohibit—

[(A) the entry into the United States of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the Convention area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission; and

[(B) the entry into the United States, from any country when the vessels of such country are being used in the conduct of fishing operations in the Convention area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the Convention area.

[(5) In the case of repeated and flagrant fishing operations in the Convention area by the vessels of any country which seriously threaten the achievement of the objectives of the Commission's recommendations, the Secretary with the concurrence of the Secretary of State, may by regulations promulgated pursuant to paragraph (2) of this subsection prohibit the entry in any form from such country of other species covered by the Convention as may be under investigation by the Commission and which were taken in the Convention area. Any such prohibition shall continue until the Secretary is satisfied that the condition warranting the prohibition no longer exists, except that all fish in any form of the species under regulation which were previously prohibited from entry shall continue to be prohibited from entry.]

(4) *PUBLICATION OF LIST.*—*Not later than January 1, 1996, and annually thereafter, the Secretary, in consultation with the Secretary of State, shall publish a list of nations whose fishing vessels are fishing, or have fished during the previous year, within the Convention area in a manner that is inconsistent with the objectives of a conservation or management recommendation of the Commission.*

(5) *IDENTIFICATION AND NOTIFICATION.*—*As soon as practicable after the date of the enactment of the Atlantic Tunas Convention Act of 1995 and as appropriate thereafter, the Secretary shall—*

*(A) identify those nations whose fishing vessels are fishing within the Convention area in a manner that is inconsistent with the objectives of a conservation or management recommendation of the Commission; and*

*(B) notify the President and the nation so identified, including an explanation of the reasons therefor.*

(6) *CONSULTATIONS.*—*Not later than 30 days after a nation is notified under paragraph (5), the President shall enter into consultations with the government of that nation for the purpose of obtaining an agreement that will—*

*(A) effect the immediate termination and prevent the resumption of any fishing by fishing vessels of that nation within the Convention area that is inconsistent with the objectives of a conservation or management recommendation of the Commission; and*

*(B) when practicable, require the government or fishing vessels of that nation to mitigate the negative impacts of that fishing on the effectiveness of a conservation or management recommendation of the Commission including, but not limited to, by imposing deductions for quota overages in subsequent years.*

(7) *PROHIBITION OF IMPORTS OF FISH AND FISH PRODUCTS.*—

*(A) If, within 90 days after entering into consultations under paragraph (6), the President finds that such consultations have not concluded satisfactorily or are not likely to conclude satisfactorily, the President shall—*

*(i) direct the Secretary of the Treasury to prohibit the importation into the United States from the nation concerned of fish and fish products of those species which are subject to regulation pursuant to a recommendation of the Commission and which were harvested within the Convention area; and*

*(ii) upon the recommendation of the Secretary, direct the Secretary of the Treasury to prohibit the importation from the nation concerned of such other fish and fish products as may be necessary to carry out the purposes of this subsection.*

*(B) In making a recommendation under subparagraph (A)(ii), the Secretary shall take into consideration the severity of the impacts of fishing by fishing vessels of the nation concerned on the effectiveness of a conservation or management recommendation of the Commission.*

\* \* \* \* \*

#### VIOLATIONS; FINES AND FORFEITURES; APPLICATION OF RELATED LAWS

#### SEC. 7. (a) \* \* \*

\* \* \* \* \*

#### [(e)(1) Any person who—

[(A) violates any provision of subsection (a) of this section shall be assessed a civil penalty of not more than \$25,000, and for any subsequent violation of such subsection (a) shall be assessed a civil penalty of not more than \$50,000;

[(B) violates any provision of subsection (b) or (c) of this section shall be assessed a civil penalty of not more than \$1,000, and for any subsequent violation of such subsection (b) or (c) shall be assessed a civil penalty of not more than \$5,000; or

[(C) violates any provision of subsection (d) of this section shall be assessed a civil penalty of not more than \$100,000.

[(2) The Secretary is responsible for the assessment of the civil penalties provided for in paragraph (1). The Secretary may remit or mitigate any civil penalty assessed by him under this subsection for good cause shown.

[(3) No penalty shall be assessed under this subsection unless the person accused of committing any violation is given notice and opportunity for a hearing with respect to such violation.

[(4) Upon any failure of any person to pay a penalty assessed under this subsection, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action.]

*(e) The civil penalty and permit sanctions of section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C.*



*1858) are hereby made applicable to violations of this section as if they were violations of section 307 of that Act.*

\* \* \* \* \*

#### [AUTHORIZATION OF APPROPRIATIONS

**[SEC. 10.** There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, not more than \$2,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.]

#### AUTHORIZATION OF APPROPRIATIONS

*SEC. 10. There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, the following sums:*

*(1) For fiscal year 1996, \$2,750,000, of which \$50,000 are authorized in the aggregate for the advisory committee established under section 4 and the species working groups established under section 4A, and \$1,500,000 are authorized for research activities under this Act.*

*(2) For fiscal year 1997, \$4,000,000 of which \$62,000 are authorized in the aggregate for such advisory committee and such working groups, and \$2,500,000 are authorized for such research activities.*

*(3) For fiscal year 1998, \$4,000,000, of which \$75,000 are authorized in the aggregate for such advisory committee and such working groups, and \$2,500,000 are authorized for such research activities.*

\* \* \* \* \*

#### ANNUAL REPORT

*SEC. 12. Not later than April 1, 1996, and annually thereafter, the Secretary, in consultation with the Secretary of State and the advisory committee established under section 4, shall prepare and transmit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, that—*

*(1) details for the previous 10-year period the catches and exports to the United States of highly migratory species (including tunas, swordfish, marlin, and sharks) from nations fishing on Atlantic stocks of such species that are subject to management by the Commission;*

*(2) describes the results of efforts by the United States to negotiate with other nations whose fishing vessels are fishing or have fished in the previous year within the Convention area to establish reporting, monitoring, and enforcement measures that are comparable to those in effect for the United States pursuant to the Convention;*

*(3) describes reporting requirements established by the Secretary to ensure that imported fish products are in compliance with all international management measures, including mini-*

*mum size requirements, established by the Commission and other international fishery organizations to which the United States is a party; and*

*(4) describes actions taken by the Secretary under sections 6 and 13.*

*CERTIFICATION*

*SEC. 13. (a) After January 1, 1997, if the Secretary determines that any nation with which negotiations were held pursuant to section 12(2) has not established or is not likely to establish reporting, monitoring, and enforcement measures that are comparable to those in effect for the United States pursuant to the Convention, the Secretary shall certify that fact to the President and notify the nation of the certification.*

*(b) Within 60 days after the date of receiving a certification under subsection (a) regarding a nation, the President shall direct the Secretary of the Treasury to limit the importation from the nation of fish and fish products of those species which are subject to a regulation pursuant to a recommendation of the Commission, to levels that are consistent with the applicable harvest or fishing mortality levels recommended by the Commission.*

*REMOVAL OF PROHIBITIONS*

*SEC. 14. If the President finds that the reasons for the imposition of any prohibition under section 6 or any limitation on importation under section 13 no longer prevail, the President shall direct the Secretary of the Treasury to promptly terminate such prohibition or limitation.*

*SAVINGS CLAUSES*

*SEC. 15. (a) Nothing in this Act shall have the effect of diminishing the rights and obligations of any nation under Article VIII(3) of the Convention.*

*(b) Nothing in this Act shall have the effect of diminishing the rights and obligations of the United States as set forth in the General Agreement on Tariffs and Trade.*